The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte WESLEY STOUT III

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Appeal No. 2003-1046
Application 09/100,934

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ON BRIEF

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MAILED

MAY 3 0 2003

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before FLEMING, DIXON, and BARRY, *Administrative Patent Judges*.

FLEMING, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 5 and 6, all the claims pending in the instant application. Claims 1 through 4 have been canceled.

Invention

The invention relates to a method for operating a computer system to accurately perform date operations spanning centuries. See page 1 of Appellant's specification. Figure 6 shows a second

1

embodiment utilizing a 7-digit integer data file 24 which has a

YYYYDDD format. As shown in figure 6, May 2, 1998 shown in the

YYYYDDD format is 2000122. See page 8 of the specification.

Referring to figure 5, the procedure performed when adding days

to a certain date is illustrated. In step S3, the system

determines whether the last three integers in the file is in

excess of 365 or 366 in the event of a leap year. In such case,

the system adds 635 to the number, as shown in step S4. See

page 7 of Appellant's specification. In the case of subtracting

days from a date, a similar procedure is used. See page 8 of

Appellant's specification.

Independent claims 5 and 6 present in the application are

reproduced as follows:

5. A series of operational steps to be performed by a
computer, said steps comprising:

storing a plurality of date files within the computer, each
said date file having 7 integers including;

a 4-digit decimal year represented in the first four
integers of said 7 integers;

a 3 digit decimal day represented in the last three integers
of said 7 integers;

in a central processing unit of the computer, adding said 7
integers of one of said plurality of date files to said 7
integers of another said plurality of sate files to generate a
sum; and

2

adding 635 to said sum when the last three integers of said sum is in excess of 365 to generate a new date file representative of a new calendar date.

6. A series of operational steps to be performed by a computer, said steps comprising:

storing a plurality of date files within the computer, each said date file having 7 integers including;

a 4-digit decimal year represented in the first four integers of said 7 integers;

a 3 digit decimal day represented in the last three integers of said 7 integers;

in a central processing unit of the computer, subtracting said 7 integers of one of said plurality of date files to said 7 integers of another said plurality of sate files to generate a sum; and

subtracting 635 to said sum when the last three integers of said sum is in excess of 365 to generate a new date file representative of the number of years and days difference between the date files.

Reference

The reference relied on by the Examiner is as follows:

Adamchick   5,761,668   Jun. 2, 1998

Rejection at Issue

Claims 5 and 6 stand rejected under 35 U.S.C. § 103 as being unpatentable over Adamchick.

Throughout the opinion, we will make reference to the briefs[1] and answer for the respective details thereof.

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejection and the arguments of Appellant and Examiner for reason stated **infra**, we reverse the Examiner's rejection of claims 5 and 6 under 35 U.S.C. § 103.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a **prima facie** case of obviousness. **In re Oetiker**, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). **See also In re Piasecki**, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. **In re Fine**, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants.

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[1]Appellant filed an appeal brief on February 20, 2002. Appellant filed a reply brief on October 30, 2002. The Examiner mailed an Office Communication on December 31, 2002, stating that the reply brief has been entered and considered.

Oetiker, 977 F.2d at 1445, 24 USPQ2d at 1444. **See also Piasecki**,
745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and
consideration of all the pertinent evidence and arguments. "In
reviewing the [E]xaminer's decision on appeal, the Board must
necessarily weight all of the evidence and arguments." **In re
Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. "[T]he Board must
not only assure that the requisite findings are made, based on
evidence of record, but must also explain the reasoning by which
the findings are deemed to support the agency's conclusion." **In
re Lee**, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir.
2002). With these principles in mind, we commence review of the
pertinent evidence and arguments of Appellant and Examiner.

The Examiner agrees that Adamchick does not expressly teach
adding or subtracting the integer 635 as recited in Appellant's
claims 5 and 6 respectively. The Examiner argues that these
limitations are well known in the art. See page 4 of the
Examiner's answer.

Appellant responds by stating that the Manual of Patent
Examining Procedure MPEP § 2144.03 requires that when the
applicant seasonably challenges the cited well known facts the

burden is shifted to the Examiner to cite a specific reference of those facts. Appellant has challenged the Examiner's recitation of the well known art. Appellant points out that no publication or reference has been produced to support any aspects of what the Examiner contends to be well known in the art. See page 10 of the brief.

Appellant further argues that the limitations are not found in the prior art publications or any factual examples of modular arithmetic as relied on by the Examiner. Appellant argues that the Examiner has taken Appellant's teachings and found a theory of mathematic that the Examiner believes explains the Appellant's invention. Appellant argues that this is improper.

When determining obviousness, "[t]he factual inquiry whether to combine references must be thorough and searching." **In re Lee**, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002), **citing McGinley v. Franklin Sports, Inc.**, 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001). "It must be based on objective evidence of record" **Id.** "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" **In re Dembiczak**, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617. "Mere denials and conclusory statements,

however, are not sufficient to establish a genuine issue of material fact." **Dembiczak**, 175 F.3d at 999, 50 USPQ2d at 1617, **citing McElmurry v. Arkansas Power & Light Co.**, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

We fail to find that the Examiner has failed to provide findings that support the Examiner's conclusion of obviousness. The Examiner is charged with the burden of providing objective evidence for the record. Broad conclusory statements regarding that Appellant's claimed limitation are obvious without proper findings in the prior art to show that these limitations are known, fail to meet this burden.
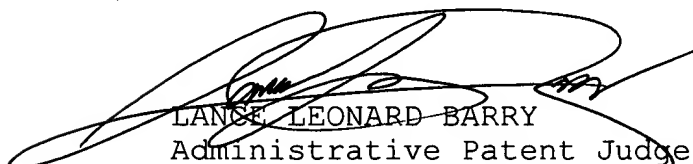
In view of the foregoing, we have not sustained the
Examiner's rejection of claims 5 and 6 under 35 U.S.C. § 103.

REVERSED

MICHAEL R. FLEMING   )
Administrative Patent Judge   )
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)
) BOARD OF PATENT
JOSEPH L. DIXON   )
Administrative Patent Judge   )   APPEALS AND
)
) INTERFERENCES
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8

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